

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

| | | |
|----------------------------|---|------------------------|
| _____ | § | Chapter 11 |
| IN RE: | § | |
| | § | |
| CIRCUIT CITY STORES, INC., | § | CASE NO. 08-35653-KRH |
| et al., | § | |
| | § | |
| DEBTORS | § | (Jointly Administered) |
| _____ | § | |

**MOTION FOR LEAVE OF COURT TO ATTEND
HEARING BY TELEPHONE**

The Wal-Mart Stores, Inc. ("Wal-Mart"), landlord of the Debtor, Circuit City Stores, Inc., and creditor in the above-captioned Chapter 11 proceedings, by and through its undersigned counsel, and pursuant to the Court's Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures, hereby moves for leave of Court to attend the March 13, 2009 hearing by telephone. In support thereof, Wal-Mart states as follows:

1. On November 10, 2008 (the "Petition Date"), the above-captioned Debtors and Debtors-in-Possession (collectively, the "Debtors"), filed Voluntary Petitions in this Court for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code").

2. Debtor, Circuit City Stores, Inc., is in default in both pre-petition and post-petition

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obligations under its lease with Wal-Mart for its Dade County, Florida Store identified as Store No. 3207.

3. On January 9, 2009, this Court authorized Wal-Mart's bankruptcy counsel, Charles B. Hendricks, to be admitted *pro hac vice* in these proceedings.

4. On February 19, 2009, this Court entered its second order approving bidding and auction procedures for the sale of the Debtors' interests in unexpired nonresidential leases (the "Bidding and Rejection Procedures Order). This Order provided that "The Debtors shall provide the Potential Purchaser Notice to Lessors within six (6) hours of the Bid Deadline." (para. 7, pg. 9 of the Bidding and Rejection Procedures Order). This Court later moved the Bid Deadline to March 3, 2009.

5. On March 3, 2009, Wal-Mart submitted a Landlord Credit Bid to Debtors' counsel. The same day the Debtors filed a Statement of Bids Received (Doc. No. 2403) which listed that a bid had been received for the leasehold interest in the property leased by Wal-Mart.

6. On March 5, 2009, Debtors' counsel then filed a Supplemental Cure Schedule listing the Wal-Mart property with an incorrect cure amount.

7. On March 6, 2009, counsel for Wal-Mart called and emailed requesting the "Potential Purchaser Notice", including the qualified bidder's name and adequate assurance information as required by the Bidding and Rejection Procedures Motion as the same had not been received.

8. On March 9, 2009, Wal-Mart's counsel was advised that there were no other bids, other than its Landlord Bid, and that their leasehold would *not* be included in the March 10th

auction. Later that same day Debtors' counsel advised that the leasehold now would be included in the auction set for the next day.

9. Due to the fact that Wal-Mart was the sole bidder and thus the successful bidder today at the sale, approval of the Landlord Bid will now be before the Court on Friday, March 13, 2009.

10. On November 13, 2008, this Court entered an Order Pursuant to Bankruptcy Code Sections 102 and 105, Bankruptcy Rules 2002 and 9007, and Local Bankruptcy Rules 2002-1 and 9013-1 Establishing Certain Notice, Case Management, and Administrative Procedures (the "Order"). On page 5 of Exhibit A, the Order states:

(g) Upon request, the Court may allow counsel to listen to a hearing by telephone. If a matter is contested, counsel must attend in person, unless leave of the court is granted on a case by case basis.

11. Attorney Hendricks, lead counsel for Wal-Mart, will not be able to appear in person on March 13, 2009, due to prior commitments, and Wal-Mart respectfully asks for leave of Court pursuant to the Order so that he may appear and participate by telephone with Virginia counsel present in the courtroom.

WHEREFORE, Wal-Mart respectfully requests that this Court grant this motion and enter an Order substantially in the form annexed hereto permitting Charles Hendricks to appear and be heard by telephone at the hearing on March 13, 2009 on behalf of Wal-Mart Stores, Inc.; and granting such other relief as necessary and appropriate.

RESPECTFULLY SUBMITTED,

/s/ Charles B. Hendricks

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was served by electronic means or U.S. Mail, First Class, postage prepaid on this the 10th day of March, 2009 to the following constituting all necessary parties:

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